

a dramshop or entered one to get a drink was to be burned.¹

One who committed incest with his mother was to meet the same punishment,² also one who married a mother and her daughter at the same time.⁸ In Levit. xx. 14 if a man marries a mother and her daughter together, all are to be burned, and in Levit. xxi. 9 the daughter of a priest, if she becomes a harlot, is to be burned. At the end of the seventh century B.C. some priestly families connected with the temple of Amon at Napata, Egypt, by way of reform, introduced the custom of eating the meat of sacrifices uncooked. They were burned for heresy.⁴ In the year 5 B.C., upon a rumor of the death of Herod I, some Jews tore down the Roman eagle from the gate of the temple. Herod caused forty-two of them to be "burned."⁵ Caligula caused an atellan composer to be burned in the arena for a sarcasm on the emperor.⁶ Constantine ordered that if a free woman had intercourse with a slave man, the man should be burned.⁷ In all the ancient and classical period, burning was reserved as a most painful form of death for the most abominable criminals and the most extravagant and rare crimes. By another law of Constantine it was ordered that if Jews and heaven worshipers should stone those who were converted from their sects to the Catholic faith, they should be burned.⁸ In the Theodosian Code, also, any slave who accused his master of any crime except high treason was to be burned alive without investigation.⁹ Thus burning became the penalty for criminals of a despised class or race.

235. Burning in North. American colonies. In the colonial laws of Massachusetts, New Jersey, New York, South Carolina, and Virginia it was provided that negroes should be

executed by
 burning. Here we have a recrudescence of the idea
 that great
 penalties are deterrent. Modern penologists do not
 believe that
 that is true. It is, however, the belief of the masses,
 which they
 have recently shown in methods of lynching. It
 might have
 been believed ten years ago that it would be
 impossible to get a

- 1 Winckler, *Gesetze Hammurabis*, 19. ⁶ Suetonius,
Caligula, 27.
 2 *Ibid.*, 26. *i cod. Theod.*, IX, 9.
 * ³ Müller, *Hammurabi*, 131. ⁸ *Cod. Justin.*, I, 9.
 * Maspero, *Peujks de ? Orient*, III, 666. ⁹ *Cod. Theod.*, VI, 2.
 * *Jewish Encyc.*, VI, s.v. « Herod I."